IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATON NO. 102 OF 2006.

Beardsell Limited. .. Applicant.
V/s.
Dr. Simone Josephine Mascarehans... Respondents.

Shri V.T. Walawalkar for Shri L.S. Krishnamoorthy for the applicant.

Shri R.V. Yadav for the respondent.

CORAM: A.M. KHANWILKAR,J.

DATED: 21st July 2006.

P.C.:

. Heard Counsel for the parties.

2. I see no reason to depart from the view taken by the Courts below. Shri Walawalkar vehemently contends that since the respondent-landlord had been accepting rent in advance, it was not open for the landlord to terminate the tenancy. It is his submission that on such acceptance of rent it was a clear case of waiver and acknowledgement of status of a tenant so far as the applicant is concerned. In my opinion, the submission is devoid of any substance. Even though expression "Rent" has been used in the receipt issued by the landlord, it is clearly mentioned that amount of receipt was received without prejudice. If such intention was made express, it is not open to the Court to infer act of waiver as sought to be contended on behalf

of the applicant.

3. Once it is held that the applicant is not protected by provisions of Maharashtra Rent Act, relationship of the parties will be governed by ordinary law of Transfer of Property Act. The notice of termination having been validly issued, as has been found by the Courts below, the grievance made before this Court will make no difference to the fact situation. Hence dismissed.

4. At this stage, applicant seeks time to vacate the premises. A request is made to grant 2 years time, which is resisted on behalf of the respondent. According to Counsel for the respondents, 2 months time can be granted. In my opinion, however, applicant can be granted 6 months time to vacate, subject to filing usual undertaking within 2 weeks from today. Order accordingly.

(A.M. KHANWILKAR,J.)